



Business, Transportation and Housing Agency

**METAL PLATING FACILITY LOAN
GUARANTEE PROGRAM**

BIENNIAL REPORT

January 2007

State of California

Arnold Schwarzenegger, Governor

California Business, Transportation and Housing Agency

Barry R. Sedlik, Acting Secretary

TABLE OF CONTENTS

Introduction	1
Background	1
Borrower Eligibility	2
Guarantee Information	2
Loan Information	2
Loan Guarantee Administration	2
Loan Guarantee Program Implementation	3
Program Expenditures	4
Model Shop Program	4
Conclusion	6
Attachment	
Program Regulations	

METAL PLATING FACILITY LOAN GUARANTEE PROGRAM

January 2007 Biennial Report

Introduction

This document constitutes the California Business, Transportation and Housing (BTH) Agency's biennial report on the Metal Plating Facility Loan Guarantee Program (MPFLGP) required by California Public Resources Code Section 42105, and covers program activities from January 1, 2006 through October 31, 2006. The report is required by statute to contain the following information:

- The number and size of loan guarantees made.
- The statewide distribution of loan guarantee applicants.
- The level of program participation and performance of each of the state's Financial Development Corporations (FDCs).
- The characteristics of loan guarantee recipients.
- The amount of money spent on program administration.
- An evaluation prepared by the Department of Toxic Substances Control (DTSC) of its Model Shop Program, including recommendations for its improvement and expansion, as well as coordination with existing enforcement activities.

The statute enacting the MPFLGP became effective on January 1, 2006. However, the program did not become operational until July of 2006 as funding needed to be appropriated in the 2006-07 Budget Act. Given that the program was in start-up stage during most of the reporting period, providing loan guarantees to eligible small businesses was premature. Therefore, this report discusses the actions taken to set-up the program and make it operational beginning with the 2007-08 fiscal year, and includes a report by DTSC on the Model Shop Program.

Background

Assembly Bill 721, authored by Speaker Nunez and signed by Governor Schwarzenegger, directed BTH to establish a loan guarantee program to be administered through its FDC network to help small businesses engaged in metal plating purchase equipment that exceeds existing environmental regulations, as well as meets or exceeds new rules that are being developed. BTH was to collaborate with DTSC, the Air Resources Board (ARB), and the State Water Resources Control Board (SWRCB) in developing the program. The program will sunset on January 1, 2012, and is funded by funds transferred from the Hazardous Waste Reduction Loan Account to the Chrome Plating Pollution Prevention Fund. The Hazardous Waste Reduction Loan Account funded the now defunct Hazardous Waste Reduction Loan Program.

The loan guarantee program is intended to assist facilities in upgrading, replacing or purchasing high quality performance environmental control equipment or technologies that will enable the facility to comply with new, or exceed existing, regulatory requirements and implement additional pollution prevention measures. Guarantee requests are for financing to purchase and install appropriate pollution control equipment, as approved by the local Air Quality Management District or Air Pollution Control District, DTSC, and the SWRCB.

Borrower Eligibility

Eligible applicants are small businesses as defined in section 14837(d) of the California Government Code (<http://www.leginfo.ca.gov/>) that own or operates a facilities that engage in metal plating, including chrome plating. Applicants must also satisfy one of the following conditions:

- ✓ Has completed or is currently participating in the state's Model Shop Program for metal platers.
- ✓ Has completed or is currently participating in the National Metal Finishing Strategic Goals Program.
- ✓ Is participating in a green business program whose goals are consistent with the pollution prevention and natural resource conservation elements of the Model Shop Program.
- ✓ Is certified as a green business whose goals are consistent with the pollution prevention and natural resource conservation elements of the Model Shop Program.

Funds must not be obtainable, upon reasonable terms, from financial companies or lending institutions without a loan guarantee, and the applicant must demonstrate that the facility upgrade meets new or exceeds existing regulatory requirements, or both, has no pending local, state, or federal enforcement or correction actions, and is participating in or has completed additional pollution prevention activities. In addition, applicants must be assigned an identification numbers as a hazardous waste generator. The applicant must be an existing, viable business with the ability to repay the loan and/or provide collateral.

Guarantee Information

Guarantees may be up to 90% of the loan amount, with a maximum guarantee amount of \$100,000 per borrower. The guarantee amount and terms are negotiated between the Financial Development Corporation guaranteeing the loan and the lender.

Loan Information

Interest rates are negotiated between the borrower and the lender. The length of the guarantee can be up to seven (7) years. The Financial Development Corporation may charge a guarantee fee of up to 2% of the guarantee amount, and a documentation fee of \$250.

Loan Guarantee Administration

AB 721 requires BTH to use its network of FDCs to administer the MPFLGP. As the overall administrator of the state's Small Business Loan Guarantee Program (SBLGP), BTH has established charter agreements with 11 FDCs. FDCs are nonprofit corporations designated by BTH to: 1) market the SBLGP; 2) coordinate the packaging of the loan and loan guarantee

applications between the small business and financial institution; 3) issue loan guarantees; and, 4) ensure that lenders have followed required procedures before requesting payment on defaulted loans. The FDCs fulfill the same role for the MPFLGP as they do for the SBLGP. Loan Guarantees are backed by funds in the Chrome Plating Pollution Prevention Fund. That same fund provides funding for program administration.

The FDCs and their location are:

- 1) California Capital Small Business Development Corporation (Sacramento).
- 2) California Coastal Rural Development Corporation (Salinas).
- 3) California Southern Small Business Development Corporation (San Diego).
- 4) Hancock Small Business Financial Development Corporation (Los Angeles).
- 5) Inland Empire Financial Development Corporation (Ontario).
- 6) Nor-Cal Small Business Financial Development Corporation (Oakland).
- 7) Pacific Coast Regional Small Business Development Corporation (Los Angeles).
- 8) San Fernando Valley Small Business Financial Development Corporation (Pacoima).
- 9) Small Business Financial Development Corporation of Orange County (Santa Ana).
- 10) State Assistance Fund for Enterprise, Business, and Industrial Development Corporation (Santa Rosa).
- 11) Valley Small Business Development Corporation (Fresno).

Loan Guarantee Program Implementation

Between January 1, 2006, and October 31, 2006, BTH took the following actions towards making the metal plating loan guarantee program operational in 2006-07:

- Convened a meeting between BTH, DTSC, ARB, and the SWRCB to define roles and responsibilities relative to the metal plating loan guarantee program, and the plan the steps needed for program implementation.
- Developed program regulations to govern how the loan guarantees will be administered. As required by statute, the regulations were developed with input from DTSC, ARB, and the SWRCB. Input was also sought from local air districts and the FDCs. As allowed by program's enabling statute the regulations were adopted as emergency regulations. Based on an Office of Administrative Law interpretation of that statute, the emergency regulations can remain in effect indefinitely; so the regulations adopted are, in effect, the final regulations. A copy of the regulations is included with this report as an attachment.
- Worked with the Department of Finance and legislative budget staff on funding for the program in the 2006-07 state budget. Funding was approved and appropriated funds for BTH program administration, the contract with the FDCs, an interagency agreement with DTSC (see next item), and payment of potential loan defaults.

- Negotiated an interagency agreement to provide DTSC with funding from the Chrome Plating Pollution Prevention Fund to establish a northern California Model Shop Program to train metal platers in pollution prevention measures. Establishment of the Model Shop is required by Assembly Bill 721, and the bill provides DTSC with \$200,000 for that effort.
- Worked with Speaker Nunez's office to pass language amending Assembly Bill 721 in order to broaden eligibility to businesses engaged in a variety of metal plating activities. The original language of AB 721 was unintentionally restrictive regarding who would be eligible for assistance under the program. With the revised language, the program is now available to all small businesses that are subject to metal plating emissions rules and are having difficulty obtaining financing.
- Completed a multi-party contract between BTH and the FDCs for administration of the program. During contract development, BTH was able to obtain Department of General Services approval for an extended term to make the contract effective during the entire lifespan of the program, thus avoiding the need for renewals every two years.
- Provided information about the program to partner environmental agencies, FDCs, and the southern and northern California metal plating associations. FDCs with high concentrations of metal platers in their service territories began contacting banks to interest them in participating in the program, while the metal plating associations made began making their members aware of the program. In addition, BTH began working with Speaker Nunez's office to schedule an event at a metal plating facility to publicize the program. That event is expected to take place after November 1, 2006.

Program Expenditures

Given that program funding needed to be appropriated in the 2006-07 Budget Act, no funds were expended on the MPFLGP during the 2005-06 fiscal year. During the first four months of 2006-07, approximately \$10,000 was spent to cover BTH administrative costs. During that time, BTH advanced \$85,000 to DTSC through their interagency agreement to cover the first 12 months of costs associated with the northern California Model Shop. However, no funds from that advance were actually expended as the individual hired to develop and implement the new Model Shop would not assume that position until November 2006.

With regard to loan guarantees, as of October 31, 2006, no funds had been paid to FDCs for completing loan guarantees, and no funds had been expended on defaulted loans.

Model Shop Program

(As mentioned previously, this report is required to include an evaluation of DTSC's Model Shop Program. The following is a report on the program prepared by DTSC.)

DTSC continues to implement the Metal Finishing Model Shop (Model Shop) Program for metal platers in southern California. The Model Shop Program began as a pilot project in southern California in April 2005 and is designed to work with the plating industry to identify sources of

pollution, develop alternative business practices and provide compliance assistance to businesses in order to run cleaner and safer shops. This program was established in southern California by DTSC through a partnership with the City of Los Angeles, Bureau of Sanitation, Metal Finishing Association of Southern California, City of Burbank Public Works, Orange County Sanitation District and the Sanitation Districts of Los Angeles County. DTSC has established an internet website where businesses can access information on the Metal Finishing Model Shop Program: http://www.dtsc.ca.gov/PollutionPrevention/index.cfm#Metal_Finishing_Model_Shop_Program.

DTSC reviews applications received and coordinates with internal and external enforcement programs and local agencies to determine an applicant's program eligibility. Ten businesses have requested applications to the program. Two businesses are currently working towards successful completion of the program. DTSC has completed eight site visits at these businesses to conduct pollution prevention assessments and to provide recommendations on ways to improve upon a shop's existing pollution prevention efforts. During these site visits, DTSC discusses with the business operator any observations regarding compliance with pretreatment sewer discharge standards and hazardous waste generator standards. DTSC expects one of those businesses to complete the program by the end of the calendar year. To date, one shop has successfully completed the program. K & L Anodizing was recognized by the program partners in September 2005 during National Pollution Prevention Week.

One business application is currently under review for acceptance into the program. DTSC has received six additional applications. Two companies have been found not eligible to participate in the program due to ongoing investigation or pending enforcement action. DTSC is working with four additional businesses to complete their applications.

Shortly after the enactment of Assembly Bill No. 721 in October 2005, DTSC began coordinating with BTH on the implementation of this legislation. DTSC participated in the initial coordination meeting with BTH, ARB, and the SWRCB in November 2005. Interagency coordination with BTH and ARB is ongoing via email and telephone. DTSC reviewed Draft and Final BTH regulations in February 2006 and July 2006, respectively. DTSC entered into an interagency agreement with BTH in July 2006 to establish a northern California Metal Finishing Model Shop Program which replicates the southern California program.

Beginning in July 2006, DTSC started the recruitment and hiring process for a Senior Hazardous Substances Scientist position to be located in DTSC's Berkeley regional office for the development and implementation of the Model Shop Program in northern California. DTSC expects this position to be filled on November 1, 2006.

In addition, DTSC has begun a dialog with the Surface Technology Association, an industry association which represents metal plating businesses located in northern California, and has gained their support for a partnership for the northern California Metal Finishing Model Shop Program. DTSC expects to attend their quarterly association meeting in November 2006 to implement and market the program. DTSC has begun contacting potential local agencies and environmental groups for their participation and partnership in the northern California Metal Finishing Model Shop Program.

In September 2006, DTSC provided BTH with a list of potential businesses that may be contacted for the loan guarantee program. In November, DTSC will begin working on an expansion of its website to include program participant success stories and internet links for BTH, ARB and industry association websites.

Conclusion

By the beginning of 2006-07, all key actions needed to make the loan guarantee program operational had been undertaken, and the program was ready to begin assisting metal platers. The next MPFLGP bi-annual report, due January 1, 2009, will cover program activity during the 2006-07 and 2007-08 fiscal years, and will report on the loan guarantees made during that period and the progress of the Model Shop Program.

Attachment

Program Regulations

Welcome to the online source for California Code of Regulations

10 CA ADC § 5280

10 CCR s 5280

Cal. Admin. Code tit. 10, s 5280

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

TITLE 10. INVESTMENT

CHAPTER 7.1. BUSINESS, TRANSPORTATION AND HOUSING AGENCY: METAL PLATING

FACILITY LOAN GUARANTEES

ARTICLE 1. METAL PLATING FACILITY LOAN GUARANTEES

This database is current through 12/01/06, Register 2006, No. 48.
s 5280. Definitions.

In addition to the definitions contained in Public Resource Code section 42100, the following supplemental definitions shall govern the construction of this chapter:

- (a) "Act" means Article 1 (commencing with section 42100) of Chapter 2 of Part 3 of Division 30 of the Public Resources Code.
- (b) "Air District" means the local Air Quality Management District or Air Pollution Control District.
- (c) "Application" means all of the information required by a corporation in order to determine whether to offer a borrower a guarantee.
- (d) "Board of Directors" means the governing board of a corporation established pursuant to Corporations Code section 14055.
- (e) "Borrower" means an eligible business that has received a commitment for a loan, or has prepared an application. In order to be an "eligible business", the business must meet all of the eligibility requirements defined in section 5281.
- (f) "CEQA" means the California Environmental Quality Act as set forth in Division 13 (commencing with section 21000) of the Public Resources Code.
- (g) "Collateral" means those personal and business assets of the borrower and guarantor subject to a lien under the loan.
- (h) "Collection guarantee" means a guarantee of a specified percentage of net loan principal and ninety (90) days interest at the same percentage. "Net loan principal" as used in this paragraph means the amount of loan principal remaining outstanding after the lender has fully complied with the collection procedures in section 5286.
- (i) "Corporation" means a Financial Development Corporation formed under the California Small Business Financial Development Corporation Law (Chapter 1 [commencing with section 14000], Part 5, Division 3, Corporations Code).
- (j) "Default" means either a delinquency which has not been cured within ninety (90) days, or that the borrower is in bankruptcy.
- (k) "Delinquency" means the failure of the borrower to make any payment when due, pursuant to the terms of the loan, except for any principal payment due at the maturity of the loan.
- (l) "Demand" means a request for payment by a lender to a corporation pursuant to section 5285.
- (m) "Environmental audit" means an investigation that may be required by a lender or a corporation into the applicant's operations and compliance with federal, state and local environmental laws, regulations and rulings, which would indicate whether the facility is, or is likely to become, contaminated.
- (n) "Environmental control equipment" means equipment or technologies that will enable the borrower to meet new or exceed existing regulatory requirements, or both, and implement additional pollution prevention and emission reduction opportunities.
- (o) "Guarantee" means a written agreement to warrant the repayment of a portion of a loan or payment of all or a portion of a claim, with repayment from the Chrome Plating Pollution Prevention Fund established by Public Resources Code section 42102. Every guarantee of a loan shall be either a collection guarantee or a loan guarantee.
- (p) "Hazardous waste" means waste or a combination of wastes as defined in Health and Safety Code sections 25115 and 25117.
- (q) "Identification number" means a number assigned pursuant to Title 22, section 66262.12 of the California Code of Regulations.
- (r) "Lender" means a banking organization, including national banks and trust companies and state chartered commercial banks,

savings and loan associations, credit unions, state insurance companies, mutual insurance companies, and other banking, lending, retirement, and insurance organizations, authorized to conduct business in California.

- (s) "Loan" means a loan by a lender to a borrower, which is guaranteed pursuant to section 5284, made for the purpose of purchasing environmental control equipment.
- (t) "Loan agreement" means an agreement for a loan entered into between a lender and a borrower that is guaranteed pursuant to section 5284.
- (u) "Loan committee" means a committee established pursuant to Corporations Code section 14060 to review applications for guarantees and make recommendations to the board of directors.
- (v) "Loan guarantee" means a guarantee of a specified percentage of loan principal and ninety (90) days interest at the same percentage.
- (w) "NAICS" means North American Industrial Classification System code published by the United States Office of Management and Budget, 1997 edition.
- (x) "Reviewing agencies" means the Air Board or Air District, the Department, and the Water Board.
- (y) "Toxic air contaminant" means an air pollutant that may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health. For the purposes of this article, toxic air contaminant means a substance identified by the Air Resources Board including, but not limited to, hexavalent chromium; nickel and nickel compounds; cadmium and cadmium compounds, and, copper and copper compounds.

Note: Authority cited: Section 42106, Public Resources Code. Reference: Sections 42100, 42101, 42102.4 and 42103, Public Resources Code.

HISTORY

1. New chapter 7.1, article 1 (sections 5280-5286) and section filed 7-26-2006 as an emergency; operative 7-26-2006 (Register 2006, No. 30). This regulatory action is deemed an emergency, was filed directly with the Secretary of State, and shall remain in effect until revised or repealed by the Business, Transportation and Housing Agency pursuant to Public Resources Code section 42106.

10 CCR s 5280, 10 CA ADC s 5280
1CAC

10 CA ADC s 5280

END OF DOCUMENT

(C) 2006 Thomson/West. No Claim to Orig. U.S. Govt. Works.

[Docs In Sequence](#) [Table of Contents](#)

This site is provided by West.
[© 2006 West](#) | [Privacy](#) | [Accessibility](#)



Welcome to the online source for California Code of Regulations

10 CA ADC § 5281

10 CCR s 5281

Cal. Admin. Code tit. 10, s 5281

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 7.1. BUSINESS, TRANSPORTATION AND HOUSING AGENCY: METAL PLATING
FACILITY LOAN GUARANTEES
ARTICLE 1. METAL PLATING FACILITY LOAN GUARANTEES
This database is current through 12/01/06, Register 2006, No. 48.
s 5281. Borrower Eligibility.

Subject to all other provisions of the act and these regulations, an applicant shall be eligible for a Metal Plating Loan Guarantee when all the following conditions are met:

- (a) The applicant has been assigned an identification number.
- (b) The applicant is an existing, viable business with the ability to repay a loan, as determined by a corporation or a lender.
- (c) The loan request is for funds to purchase and install environmental control equipment, as approved by the Air Board or Air District, Department, or Water Board.
- (d) The lender and the corporation determine that an adequate source of repayment and collateral exists to secure the loan.

Note: Authority cited: Section 42106, Public Resources Code. Reference: Sections 42101, 42101.1, 42101.3 and 42103, Public Resources Code.

HISTORY

1. New section filed 7-26-2006 as an emergency; operative 7-26-2006 (Register 2006, No. 30). This regulatory action is deemed an emergency, was filed directly with the Secretary of State, and shall remain in effect until revised or repealed by the Business, Transportation and Housing Agency pursuant to Public Resources Code section 42106.

10 CCR s 5281, 10 CA ADC s 5281
1CAC

10 CA ADC s 5281

END OF DOCUMENT

(C) 2006 Thomson/West. No Claim to Orig. U.S. Govt. Works.

[Docs In Sequence](#) [Table of Contents](#)

This site is provided by West.
[© 2006 West](#) | [Privacy](#) | [Accessibility](#)



10 CA ADC § 5282

10 CCR s 5282

Cal. Admin. Code tit. 10, s 5282

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 7.1. BUSINESS, TRANSPORTATION AND HOUSING AGENCY: METAL PLATING
FACILITY LOAN GUARANTEES
ARTICLE 1. METAL PLATING FACILITY LOAN GUARANTEES
This database is current through 12/01/06, Register 2006, No. 48.
s 5282. Application Content.

A Metal Plating Loan Guarantee application shall contain all of the following:

- (a) Information regarding the operation, ownership and location for which the application is being submitted, including:
 - (1) The name, address and telephone number of the applicant's principal contact person in connection with the request for a guarantee.
 - (2) A description of the nature of the business and/or activities conducted by the applicant, including descriptions of how the business meets the eligibility requirements in section 5281(a), (b), and (c), and Public Resources Code section 42101.1.
 - (3) The name, mailing address, and location, including latitude and longitude of the facility for which the application is submitted.
 - (4) Up to four NAICS codes which best reflect the principal products or services provided by the facility.
 - (5) The operator's name, address, telephone number, and ownership status.
 - (6) The name, address, and phone number of the owner of the facility.
- (b) Information regarding the reduction of emissions, releases and/or hazardous waste for which funding is being requested, including:
 - (1) Specification of the hazardous wastes listed or designated under Chapter 11 of Title 22 to be transferred, treated, stored, at the facility, an estimate of the quantity of such wastes to be transferred, treated, or stored, and a general description of the processes to be used for such wastes.
 - (2) A description and quantity of the emission, releases or hazardous waste to be reduced.
 - (3) A scale drawing of the facility showing the location of present and future treatment, storage, and disposal

areas.

(4) Photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.

(5) A description of the processes to be used for transferring, treating, storing, and disposing of hazardous waste, and the design capacity of these items.

(6) The location of where the emissions, releases, or hazardous waste will be reduced.

(7) The location's proximity to any sensitive receptors or residential areas.

(8) A description and diagram of the environmental control equipment to be purchased and its associated costs.

(9) Identification of any required federal, state, or local permits.

(c) Information demonstrating compliance with the applicable terms, conditions, and requirements of section 5281.

(d) A statement by the applicant that it is in compliance with all local, state and federal laws, regulations, requirements and rules, including CEQA and all other environmental laws, regulations, requirements and rules.

(e) All permits, official actions and exhibits thereto, secured in accordance with CEQA, or taken in connection with the application.

(f) A copy of the environmental audit, if one is required by the lender or the corporation.

(g) A certification by the applicant that the facility meets one of the conditions specified in section 5281(c).

(h) Information demonstrating that the applicant is able to provide adequate security, and repay the loan. "Security," as used herein, means a first lien on any equipment purchased with loan proceeds, first beneficiary interest in the life insurance policies of key applicant personnel, or other interests in real or personal property. As used herein, "key applicant personnel" means a person(s) without whom, in the judgment of the lender, the business would fail.

(i) All financial information required by the lender for the purpose of determining the applicant's worthiness for a loan.

(j) The loan amount and term.

Note: Authority cited: Section 42106, Public Resources Code. Reference: Sections 42101, 42101.1, 42101.3 and 42103, Public Resources Code.

HISTORY

1. New section filed 7-26-2006 as an emergency; operative 7-26-2006 (Register 2006, No. 30). This regulatory action is deemed an emergency, was filed directly with the Secretary of State, and shall remain in effect until revised or repealed by the Business, Transportation and Housing Agency pursuant to Public Resources Code section 42106.

10 CCR s 5282, 10 CA ADC s 5282
1CAC

10 CA ADC s 5282

END OF DOCUMENT

(C) 2006 Thomson/West. No Claim to Orig. U.S. Govt. Works.

[Docs In Sequence](#) [Table of Contents](#)

This site is provided by West.
[© 2006 West](#) | [Privacy](#) | [Accessibility](#)



Welcome to the online source for California Code of Regulations

10 CA ADC § 5283

10 CCR s 5283

Cal. Admin. Code tit. 10, s 5283

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 7.1. BUSINESS, TRANSPORTATION AND HOUSING AGENCY: METAL PLATING
FACILITY LOAN GUARANTEES
ARTICLE 1. METAL PLATING FACILITY LOAN GUARANTEES
This database is current through 12/01/06, Register 2006, No. 48.
s 5283. Guarantee Procedures.

Upon receipt of a completed application from a potential borrower applying for a guarantee, the corporation shall review and process the application in accordance with the following procedures:

(a) Before considering whether to approve a guarantee, the corporation shall provide the reviewing agencies a copy of the application. Upon completion of their review, each reviewing agency shall return to the corporation the application, together with their determination regarding approval of the application.

(1) No later than 30 calendar days after receipt of an application, the reviewing agencies shall review the application and notify the applicant in writing whether the application is complete.

(2) If any reviewing agency deems the application incomplete, the reviewing agency shall provide a written notice to the applicant and corporation and specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The reviewing agency shall specify in the notice of deficiency a date for submitting the necessary information. The applicant shall submit to the reviewing agency materials necessary to make the application complete, as specified by the reviewing agency in the written notice of incompleteness. No later than 45 calendar days after receiving additional application materials, submitted in response to a notice of incompleteness, the reviewing agency shall notify the applicant in writing whether the application with the additional materials is complete.

(3) The application shall not be deemed complete if a reviewing agency fails to make a written completeness determination within 45 calendar days. An application is deemed complete when the reviewing agency notifies the applicant in writing that the application is complete.

(4) Nothing in this subsection shall preclude the applicant and any reviewing agency from mutually agreeing to an extension of any time limit specified in this subsection.

(5) After the application is completed, a reviewing agency may request additional information from an applicant, but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(6) If an applicant fails or refuses to correct deficiencies in the application, the application may be denied.

(7) A reviewing agency may conduct a site visit in conjunction with the processing of an application.

(b) No guarantee shall be executed by a corporation until the application has been approved by all reviewing agencies, and the proposed guarantee has been reviewed by the corporation's loan committee and approved by its board of directors, unless the

corporation's board of directors has delegated the authority to approve a proposed guarantee to the corporation's loan committee. No guarantee shall be approved or executed by a corporation if the lender is the same entity as the corporation issuing the guarantee.

(c) Upon completion of the review and approval by the corporation's loan committee and/or board of directors, the corporation shall issue a commitment to guarantee and an executed guarantee to the lender.

(d) In the event that a guarantee is issued to a lender without first complying with the requirements of subsections (a) and (b), and the lender relies upon the guarantee in making the loan, the failure by the corporation to so comply shall not constitute a defense on the part of either the agency or the corporation to paying a demand for payment made pursuant to section 5285.

(e) In any case where funds are disbursed to a lender pursuant to a demand and the corporation has failed to comply with subsections (a) and (b), the agency shall immediately exercise all available legal remedies to recover from the corporation the funds disbursed pursuant to the demand.

Note: Authority cited: Section 42106, Public Resources Code. Reference: Sections 42101, 42101.3, 42102.4 and 42103, Public Resources Code.

HISTORY

1. New section filed 7-26-2006 as an emergency; operative 7-26-2006 (Register 2006, No. 30). This regulatory action is deemed an emergency, was filed directly with the Secretary of State, and shall remain in effect until revised or repealed by the Business, Transportation and Housing Agency pursuant to Public Resources Code section 42106.

10 CCR s 5283, 10 CA ADC s 5283
1CAC

10 CA ADC s 5283

END OF DOCUMENT

(C) 2006 Thomson/West. No Claim to Orig. U.S. Govt. Works.

[Docs In Sequence](#) [Table of Contents](#)

This site is provided by West.
[© 2006 West](#) | [Privacy](#) | [Accessibility](#)



10 CA ADC § 5284

10 CCR s 5284

Cal. Admin. Code tit. 10, s 5284

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 7.1. BUSINESS, TRANSPORTATION AND HOUSING AGENCY: METAL PLATING
FACILITY LOAN GUARANTEES
ARTICLE 1. METAL PLATING FACILITY LOAN GUARANTEES
This database is current through 12/01/06, Register 2006, No. 48.
s 5284. Guarantee Terms.

- (a) Following adoption of a resolution by its board of directors, a corporation shall be authorized to issue a commitment letter specifying the conditions under which it will issue a guarantee to a specified borrower.
- (b) The terms and conditions of a guarantee shall be consistent with the resolution of the corporation approving the guarantee and shall include all of the following:
 - (1) Provision that the corporation promises to pay up to ninety percent (90%) of the principal and interest, subject only to the following restrictions:
 - (A) The lender has complied with all material conditions contained in the guarantee, including perfecting collateral; and,
 - (B) The lender has not engaged, and will not engage, in fraudulent or grossly negligent practices in connection with the borrower, guarantee, the loan, or the loan agreement.
 - (2) A statement that the lender shall send to the corporation executing the guarantee, a copy of all delinquency notices mailed to the borrower.
 - (3) A description of the procedures and the responsibilities of the lender and corporation subsequent to default.
 - (4) The demand procedures described in section 5285.
 - (5) Agreement to abide by binding arbitration by the American Arbitration Association in the event that either the corporation or the agency denies the requested demand pursuant to section 5285(d)(2) or (e)(2), or the amount paid to the lender is less than the amount contained in the demand letter.
 - (6) Acknowledgment by the lender that in the event of a demand, the lender will allow a representative of the California Department of Financial Institutions, or other auditor selected by the corporation and approved by the agency, to examine the lender's loan files.
 - (7) A designation as to whether the guarantee is a collection guarantee or a loan guarantee.
 - (8) A statement that the maximum amount of interest to be paid is ninety (90) calendar days at guaranteed

percentage. The ninety (90) calendar day limit can only be exceeded with the written approval of the corporation.

(c) The duration of a guarantee on a loan shall not exceed seven (7) years.

(d) The maximum guarantee for any one applicant shall not exceed \$100,000.

(e) The corporation shall be authorized to charge a loan guarantee fee not to exceed two (2) percent of the principal amount guaranteed.

(f) For a guarantee with a term greater than one year, the corporation may charge a guarantee servicing fee not to exceed .5% of the principal amount guaranteed. The servicing fee shall be authorized to commence on the first anniversary of the effective date of the guarantee, and to continue annually until the guarantee is released.

Note: Authority cited: Section 42106, Public Resources Code. Reference: Sections 42101, 42101.2 and 42102.4, Public Resources Code.

HISTORY

1. New section filed 7-26-2006 as an emergency; operative 7-26-2006 (Register 2006, No. 30). This regulatory action is deemed an emergency, was filed directly with the Secretary of State, and shall remain in effect until revised or repealed by the Business, Transportation and Housing Agency pursuant to Public Resources Code section 42106.

10 CCR s 5284, 10 CA ADC s 5284
1CAC

10 CA ADC s 5284

END OF DOCUMENT

(C) 2006 Thomson/West. No Claim to Orig. U.S. Govt. Works.

[Docs In Sequence](#) [Table of Contents](#)

This site is provided by West.
[© 2006 West](#) | [Privacy](#) | [Accessibility](#)



10 CA ADC § 5285

10 CCR s 5285

Cal. Admin. Code tit. 10, s 5285

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 7.1. BUSINESS, TRANSPORTATION AND HOUSING AGENCY: METAL PLATING
FACILITY LOAN GUARANTEES
ARTICLE 1. METAL PLATING FACILITY LOAN GUARANTEES
This database is current through 12/01/06, Register 2006, No. 48.
s 5285. Demand Procedures.

(a) The lender shall be authorized to make a demand upon the corporation executing the guarantee for repayment of the unpaid loan principal and interest pursuant to the terms of the guarantee, upon compliance with the following:

(1) Providing proof to the corporation that the borrower is in default and lender has delivered to both the borrower and the corporation a minimum of two letters subsequent to the delinquency, at least thirty (30) days apart, explaining the consequences for failure to remedy the delinquency. This requirement shall not apply if borrower is in bankruptcy.

(2) If the guarantee is a collection guarantee, providing proof that the lender has complied with the liquidation requirements of section 5286.

(b) The lender shall deliver to the corporation executing the guarantee a demand letter requesting immediate payment of the guaranteed portion of loan interest and principal, and documenting compliance with subsection (a).

(c) Within five (5) days of receipt of the demand letter, the corporation shall contract with the California Department of Financial Institutions or an independent auditor to conduct an investigation to determine whether the lender has complied with the terms of the guarantee, and to issue a report to both the corporation and the agency. The investigation shall address each of the following issues:

(1) Whether the loan agreement between the borrower and lender is consistent with the terms and conditions in the guarantee.

(2) Whether all collateral for the loan and guarantee been perfected and maintained. Whether all collateral available for assignment to the corporation in the event that payment is made upon the demand. Whether any collateral is not available as a result of lender's negligence, breach of contract, foreclosure or other cause, and a description of any such collateral.

(3) If the guarantee is a collection guarantee, whether the lender complied with the liquidation procedures of section 5286.

(4) Calculation on the outstanding principal and interest owed.

(5) Whether the lender complied with the procedures for making a demand under section 5285(b).

(6) In a section entitled "Loan Information" the report shall include the following information obtained solely from a review of lender files: a description of the borrower's business, a description of the collateral for the loan, and a

discussion as to whether the lender files contain any reference to matters material to borrower's compliance with any environmental laws or regulations. The description of collateral shall identify all real property collateral as one or more of the following: industrial, commercial, agricultural, single family residence, multi-unit residential, vacant lot, or unknown.

(7) A loan history.

(d) Within five (5) days of receiving the California Department of Financial Institutions or auditor's report, the corporation shall do one of the following:

(1) Deliver to the agency a request for payment on the demand, along with: A copy of the report described in subsection (c); the demand; and a calculation of the amount owed pursuant to the guarantee; or,

(2) Deliver to the lender, with a copy simultaneously delivered to the agency, a refusal to make payment pursuant to the demand, and detailing the reasons for refusal.

(e) Within ten (10) calendar days from the date the agency receives the request for payment, the agency shall do one of the following and simultaneously inform the lender of such action:

(1) Deliver or cause to be delivered to the corporation a check in an amount not to exceed the amount contained in the demand letter, made payable to the lender; or,

(2) Deliver or cause to be delivered a denial of the request for payment to the corporation based upon fraud or gross negligence on the part of the lender known to the agency.

(3) Deliver or cause to be delivered to the corporation a statement that the investigation was incomplete, and requiring the corporation to complete the investigation and resubmit the request for payment to the agency within five (5) calendar days from the date the statement is received by the corporation.

(f) The amount paid to the lender pursuant to a demand letter shall be less than the amount contained in the demand letter only under the following circumstances:

(1) The demand contains an incorrect calculation of the amount owing;

(2) The amount owing on the loan has been reduced by subsequent payments from the borrower to the lender; or

(3) The lender has engaged in fraudulent activities pertaining to the loan.

(g) Within one working day of receiving the check from the agency, the corporation shall contact the lender and arrange to deliver the check to the lender. The corporation shall deliver the check and simultaneously collect an assignment by the lender of the lender's interest in the loan. The assignment shall include the loan note and all collateral, except as provided in section 5286.

(h) Demand must be made upon the corporation no later than noon on the thirty-first calendar day following the date on which the guarantee terminates; provided, however, that if the thirty-first day is not a day upon which the corporation is open for business, the last day for making a demand shall occur on the next succeeding day upon which the corporation is open for business.

Note: Authority cited: Section 42106, Public Resources Code. Reference: Sections 42101 and 42102.4, Public Resources Code.

HISTORY

1. New section filed 7-26-2006 as an emergency; operative 7-26-2006 (Register 2006, No. 30). This regulatory action is deemed an emergency, was filed directly with the Secretary of State, and shall remain in effect until revised or repealed by the Business, Transportation and Housing Agency pursuant to Public Resources Code section 42106.

10 CCR s 5285, 10 CA ADC s 5285
1CAC

10 CA ADC s 5285

END OF DOCUMENT

(C) 2006 Thomson/West. No Claim to Orig. U.S. Govt. Works.

[Docs In Sequence](#) [Table of Contents](#)

This site is provided by West.
[© 2006 West](#) | [Privacy](#) | [Accessibility](#)



10 CA ADC § 5286

10 CCR s 5286

Cal. Admin. Code tit. 10, s 5286

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 7.1. BUSINESS, TRANSPORTATION AND HOUSING AGENCY: METAL PLATING
FACILITY LOAN GUARANTEES
ARTICLE 1. METAL PLATING FACILITY LOAN GUARANTEES
This database is current through 12/01/06, Register 2006, No. 48.
s 5286. Collection Requirements for Collection Guarantees.

- (a) A lender shall not be authorized to file a demand for a collection guarantee unless it has complied with this section. The requirements contained in this section are in addition to the requirements contained in section 5285.
- (b) The lender must liquidate all collateral, but shall not be required to file a lawsuit against any borrower or guarantor. "Liquidate" as used in this paragraph means that the lender has exhausted all collateral by one of the following methods:
- (1) Converted the collateral into cash;
- (2) Demonstrated, to the satisfaction of the corporation that the collateral is without sufficient value to convert to cash; or
- (3) Demonstrated that the borrower has filed for bankruptcy.

Note: Authority cited: Section 42106, Public Resources Code. Reference: Sections 42101 and 42102.4, Public Resources Code.

HISTORY

1. New section filed 7-26-2006 as an emergency; operative 7-26-2006 (Register 2006, No. 30). This regulatory action is deemed an emergency, was filed directly with the Secretary of State, and shall remain in effect until revised or repealed by the Business, Transportation and Housing Agency pursuant to Public Resources Code section 42106.

10 CCR s 5286, 10 CA ADC s 5286
1CAC

10 CA ADC s 5286

END OF DOCUMENT

(C) 2006 Thomson/West. No Claim to Orig. U.S. Govt. Works.

[Docs In Sequence](#) [Table of Contents](#)

This site is provided by West.
[© 2006 West](#) | [Privacy](#) | [Accessibility](#)

